

Exhibit 8

The Department of

Labor and Economic Opportunity

BUREAUS & AGENCIES

BOARDS, COMMISSIONS & COUNCILS

INSIDE LEO

COVID-19 WORKPLACE SAFETY

LABOR AND ECONOMIC OPPORTUNITY / BUREAUS & AGENCIES /

MI OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION / RADIATION SAFETY

Information on Flint XRF Scanners

On September 2, 2021, the Detroit Free Press ran a news story regarding the use of an XRF scanner on Flint residents. The article referenced efforts undertaken by MIOSHA to ensure that use of the XRF Scanner was done in accordance with MIOSHA's rules and regulations, but unfortunately may have left some readers with the misunderstanding that use of the XRF scanner exposed individuals to radiation at dangerous or unsafe levels, which is not accurate.

Therefore, the Department of Labor and Economic Opportunity and MIOSHA thought it would be helpful for the public to have access to the entirety of MIOSHA's response to questions that the Detroit Free Press posed. Below please find MIOSHA's entire September 1, 2021, pre-publication response to the Detroit Free Press. Please also see below a link to a document that outlines MIOSHA's role in regulating uses of XRF devices in the State of Michigan. We hope you find this information helpful.

Pre-publication statement provided to the Detroit Free Press on September 1, 2021

"As an initial and general matter, there was no indication from MIOSHA's inspections that an individual operating these machines or having the machine used on them was exposed to radiation at dangerous or unsafe levels. MIOSHA's regulation of x-ray devices like the ones at issue is a collaborative one aimed at getting devices registered consistent with the applicable laws and rules. The rules require machines to be registered with MIOSHA, but they clearly say that a registration does not constitute an approval by MIOSHA for any particular activity. These rules also require registration of machines before they are used, but that does not always happen. When confronted with those situations, MIOSHA works with the registrant (who may not have been aware of the registration requirements) to get them into compliance with the applicable rules.

Persons registering new devices must select what they consider to be the appropriate use category for the machine, and they are not required to indicate that a machine will be used on humans. MIOSHA is not bound by the registrant's selection and if a subsequent inspection establishes that a different category was more appropriate, MIOSHA can reissue the registration and include registration conditions.

It is true that MIOSHA may issue fines or pursue criminal actions if a person violates the rules. But as indicated on MIOSHA's website, it has been found to be more efficient to work with registrants to ensure the

proper registration and the safe use of their x-ray machines without the need to issue civil penalties or pursue criminal action. During the inspections at issue, MIOSHA did not discover any facts that caused it to deviate from this collaborative, get-into-compliance approach. Again, MIOSHA did not conclude that an individual operating these machines or having the machine used on them was exposed to radiation at dangerous or unsafe levels.

The use of these particular machines was novel, but MIOSHA's review and inspection of the machines and their use was consistent with its normal regulatory activities. The novel nature of the machines did lead to more-than-typical communication with the registrant about the machines on topics like how they were being used, how much radiation they emitted, and ways that additional safeguards (or registration conditions) could be implemented. MIOSHA ultimately required additional safeguards but did not conclude that anyone was endangered by the use of the machines prior to the implementation of those additional safeguards. For example, MIOSHA immediately required the use of finger or wrist radiation monitors for employees because that is a requirement of an existing rule for users of handheld XRF units. For machine types and uses that are not specifically covered by its rules, MIOSHA will propose registration conditions for that specific use and will generally give registrants an opportunity to comment on the conditions. MIOSHA will consider a registrant's comments, but is not bound by them when ultimately issuing registration conditions.

MIOSHA did not conclude that the registrant was being misleading about the amount of radiation being emitted. Rather, there was communication about the different ways such emissions can be measured and MIOSHA explained the proper form of measurement under the applicable rules. And, MIOSHA does not administer the certificate of need program in Michigan. The goal of Michigan's Certificate of Need (CON) program is to protect healthcare customers from excess or low-quality healthcare services and the costs associated with them. The devices used by Napoli Shkolnik is not a service covered under the CON program.

MIOSHA did not order that the machines stop being used following its initial visit to the facility because there were no indications that any individuals were being exposed to high or dangerous levels of radiation, and that course of action would not be consistent with MIOSHA's radiation safety regulation practices. Generally, MIOSHA gives registrants time to take corrective action and, if necessary, MIOSHA may reinspect a facility to determine whether compliance was achieved. The aim here was to ensure compliance; not the issuance of orders to stop using the machines.

When it became aware of the use of these particular machines, MIOSHA took steps to ensure it acted promptly and in a manner consistent with its prior regulation of x-ray machines. The novel nature of the use of the machines caused MIOSHA to be deliberate in its review and inspections, which explains why the process was ongoing for several months."

To view the document that outlines MIOSHA's role in regulating use of XRF devices in the State of Michigan, please click on the following link: "[MIOSHA Radiation Safety Section Inspection Authority Related to XRF Devices and Regulation.](#)"

RELATED CONTENT

- Freedom of Information Act Requests
- Forms and Publications for Radiation Safety
- Online Payment of Registration or Inspection Fees
- Contact the Radiation Safety Section
- Frequently Asked Questions



FOIA

MICHIGAN.GOV HOME
ADA
MICHIGAN NEWS
POLICIES

COPYRIGHT 2021 STATE OF MICHIGAN